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Attorney for Plaintiff Leslee Roy

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

LESLEE ROY, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

TRANS UNION, LLC, a foreign
corporation

Defendant.

No. _____

CLASS ACTION COMPLAINT
(Fair Credit Reporting Act)

JURY TRIAL REQUESTED

PRELIMINARY STATEMENT

1. This is a consumer class action brought for willful violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681, *et seq.* (“FCRA”), against Trans Union, LLC (“Trans Union”), a national consumer reporting agency. In violation of the FCRA, Trans Union prepares and furnishes consumer reports that include State of Arizona tax

1 liens that: (a) the FCRA prohibits Trans Union from reporting; and (b) that have been
2 paid, satisfied or released, but are not reported as paid, satisfied or released.

3
4 JURISDICTION

5 2. Jurisdiction of this Court arises under 15 U.S.C. § 1681p.

6 PARTIES

7
8 3. Plaintiff Leslee Roy ("Plaintiff") is an adult individual who had a State of
9 Arizona tax lien that was paid, satisfied and released. Plaintiff is a "consumer" as that
10 term is defined by 15 U.S.C. § 1681a(c).

11
12 4. Trans Union is a "consumer reporting agency" ("CRA") as that term is
13 defined by 15 U.S.C. § 1681a(f).

14 FACTUAL ALLEGATIONS

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16 5. On May 17, 2011, Plaintiff went to a car dealer to arrange the purchase of a
17 truck she had been leasing. The car dealer requested a consumer report on Plaintiff
18 from Trans Union.

19
20 6. On May 17, 2011, Trans Union furnished the car dealer with a consumer
21 report on Plaintiff that listed a State of Arizona tax lien, number 9006494. This tax lien
22 had been paid and satisfied, and the Arizona Department of Revenue executed a full
23 release of this tax lien on July 14, 1995.

24
25 7. The Maricopa County Recorder recorded such release on July 19, 1995.

26
27 8. The Trans Union consumer report did not indicate that the lien had been paid,
28 satisfied or released.

1 9. On May 17, 2011, Trans Union furnished a consumer report on Plaintiff to an
2 auto financing company that listed a State of Arizona tax lien, number 9006494. This
3 tax lien had been paid and satisfied, and recorded as fully released on July 19, 1995.
4 The Trans Union consumer report did not indicate that the lien had been paid, satisfied
5 or released.
6

7 10. The FCRA specifically prohibits a consumer reporting agency such as Trans
8 Union from reporting a tax lien if seven years have passed since the tax lien was paid.
9 The FCRA provides: “[N]o consumer reporting agency may make any consumer report
10 containing any of the following items of information: ... (3) Paid tax liens which, from
11 date of payment, antedate the report by more than seven years.” 15 U.S.C. §
12 1681c(a)(3).
13

14 11. The FCRA also provides: “Whenever a consumer reporting agency prepares a
15 consumer report it shall follow reasonable procedures to assure maximum possible
16 accuracy of the information concerning the individual about whom the report relates.”
17 15 U.S.C. § 1681e(b).
18

19 12. Trans Union’s conduct was a result of its deliberate policies and practices,
20 was willful, was intentionally accomplished through intended procedures, and was
21 carried out in reckless disregard for a consumer’s rights as set forth in § 1681c(a)(3) and
22 § 1681e(b) of the FCRA. Trans Union’s collecting and reporting tax liens is believed
23 by it to be of greater economic value than collecting and reporting information
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1 indicating that a tax lien has been paid, satisfied or released, or that a tax lien was paid
2 more than seven years earlier and cannot be included in a consumer report.

3
4 13. The reporting of the tax lien by Trans Union was inaccurate and occurred
5 because Trans Union failed to follow reasonable procedures to assure maximum
6 possible accuracy in the preparation of Plaintiff's consumer reports. Specifically, Trans
7 Union does not follow the same automated and systematically rigorous processes to
8 obtain all satisfactions and releases of tax liens that it follows to obtain the original tax
9 lien information.
10

11
12 14. At all times pertinent, Trans Union was acting by and through its agents,
13 servants and/or employees who were acting within the course and scope of their agency
14 or employment, and under the direct supervision and control of Trans Union.

15
16 FIRST CLASS ACTION CLAIM FOR RELIEF

17 (15 U.S.C. § 1681c(a)(3))

18
19 15. Plaintiff realleges and incorporates the allegations in paragraphs 1 through 12
20 as if fully set forth herein.

21 16. Plaintiff brings this action individually and as a class action, pursuant to
22 Rule 23 of the Federal Rules of Civil Procedure, on behalf of the following class: All
23 consumers who had a tax lien recorded in the State of Arizona on a Trans Union
24 consumer report dated on or after May 16, 2008, which tax lien had been paid more than
25 seven years prior to the date of the consumer report (hereafter the "Section 1681c(a)(3)
26 Class").
27
28

1 17. Trans Union violated 15 U.S.C. § 1681c(a)(3) by making consumer reports
2 containing a paid tax lien which, from date of payment, antedate the report by more than
3 seven years.
4

5 18. As a result of the conduct of Trans Union, Plaintiff and other Section
6 1681c(a)(3) Class members suffered actual damages.
7

8 19. Trans Union's violation of 15 U.S.C. § 1681c(a)(3) was willful, rendering
9 Trans Union liable pursuant to 15 U.S.C. § 1681n. In the alternative, Trans Union was
10 negligent, rendering Trans Union liable pursuant to 15 U.S.C. § 1681o.
11

12 20. Plaintiff and the Section 1681c(a)(3) Class members are entitled to recover
13 their actual damages and/or statutory damages, punitive damages, costs, and attorney
14 fees from Trans Union pursuant to 15 U.S.C. § 1681n and § 1681o.
15

16 21. On information and belief, Plaintiff alleges that the Section 1681c(a)(3) Class
17 is so numerous that joinder of all members is impracticable. The names and addresses
18 of the Section 1681c(a)(3) Class members are identifiable through documents
19 maintained by Trans Union and through publicly available county records, and the
20 Section 1681c(a)(3) Class members may be notified of the pendency of this action by
21 published and/or mailed notice.
22

23 22. There are questions of law and fact common to the Section 1681c(a)(3) Class
24 that predominate over any questions affecting only individual Section 1681c(a)(3) Class
25 members. These common questions are whether Trans Union negligently or willfully
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1 violated the FCRA by reporting paid tax liens which had been paid more than seven
2 years prior to the date of the report.

3
4 23. Plaintiff's claims are typical of the claims of each Section 1681c(a)(3) Class
5 member, as Plaintiff's claims arise from the same operative facts and are based on the
6 same legal theories.

7
8 24. Plaintiff will fairly and adequately protect the interests of the Section
9 1681c(a)(3) Class. Plaintiff is committed to vigorously litigating this matter and has
10 retained counsel experienced in handling class actions and claims under the FCRA.
11 Neither Plaintiff nor counsel has any interests which might cause them not to vigorously
12 pursue this claim.

13
14 25. This action should be maintained as a class action because questions of law
15 and fact common to the Section 1681c(a)(3) Class members predominate over questions
16 affecting only individual members, and a class action is superior to other available
17 methods for fair and efficient adjudication of the controversy. Further, individual
18 prosecution would prove burdensome and expensive given the complex and extensive
19 litigation necessitated by Trans Union's conduct and the limited availability of legal
20 representation for such prosecutions. It would be virtually impossible for the members
21 of the Section 1681c(a)(3) Class individually to redress effectively the wrongs done to
22 them. Even if the members of the Section 1681c(a)(3) Class themselves could afford
23 such individual litigation, it would be an unnecessary burden on the Courts. In fact, it is
24 also likely that a large number of class members may not even know of the FCRA
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1 violation, not having reviewed their current credit report, or discovered that a paid tax
2 lien more than seven years old is currently, or was, being reported. Furthermore,
3 individualized litigation presents a potential for inconsistent or contradictory judgments
4 and increases the delay and expense to all parties and to the court system. By contrast,
5 the class action process will result in substantial benefits to the litigants and the Court
6 by allowing the Court to resolve numerous individual claims based upon a single set of
7 proof in a case.

10 SECOND CLASS ACTION CLAIM FOR RELIEF

12 (15 U.S.C. § 1681e(b))

13 26. Plaintiff realleges and incorporates the allegations in paragraphs 1 through 12
14 as if fully set forth herein.

15 27. Plaintiff brings this action individually and as a class action, pursuant to
16 Rule 23 of the Federal Rules of Civil Procedure, on behalf of the following Class: All
17 consumers who had a tax lien recorded in the State of Arizona on a Trans Union
18 consumer report dated on or after May 16, 2008, which tax lien had been paid, satisfied
19 or released and was not being reported by Trans Union as paid, satisfied or released
20 (hereafter the “Section 1681e(b) Class”).

21 28. Trans Union violated 15 U.S.C. § 1681e(b) by failing to follow reasonable
22 procedures to assure maximum possible accuracy of the tax lien information in the
23 consumer reports it prepared regarding Plaintiff and the other Section 1681e(b) Class
24 members.

1 29. As a result of the conduct of Trans Union, Plaintiff and other Section
2 1681e(b) Class members suffered actual damages.

3
4 30. Trans Union's violation of 15 U.S.C. § 1681e(b) was willful, rendering Trans
5 Union liable pursuant to 15 U.S.C. § 1681n. In the alternative, Trans Union was
6 negligent, rendering Trans Union liable pursuant to 15 U.S.C. § 1681o.

7
8 31. Plaintiff and the Section 1681e(b) Class members are entitled to recover their
9 actual damages and/or statutory damages, punitive damages, costs, and attorney fees
10 from Trans Union pursuant to 15 U.S.C. § 1681n and § 1681o.

11
12 32. On information and belief, Plaintiff alleges that the Section 1681e(b) Class is
13 so numerous that joinder of all members is impracticable. The names and addresses of
14 the Section 1681e(b) Class members are identifiable through documents maintained by
15 Trans Union and through publicly available county records, and the Section 1681e(b)
16 Class members may be notified of the pendency of this action by published and/or
17 mailed notice.

18
19 33. There are questions of law and fact common to the Section 1681e(b) Class
20 that predominate over any questions affecting only individual Section 1681e(b) Class
21 members. These common legal and factual questions include:

- 22
23 (a) Whether Trans Union adopted procedures that collected and reported
24 information on payment, satisfaction or release of tax liens recorded in the
25 State of Arizona that were less accurate, thorough and effective than those
26 it used to collect and report the original tax liens;
27
28

1 (b) Whether Trans Union did so negligently, recklessly, knowingly or
2 intentionally in conscious disregard of the rights of the Section 1681e(b)
3 Class members; and
4

5 (c) Whether Trans Union's conduct constituted violations of the FCRA.

6 34. Plaintiff's claims are typical of the claims of each Section 1681e(b) Class
7 member, as Plaintiff's claims arise from the same operative facts and are based on the
8 same legal theories.
9

10 35. Plaintiff will fairly and adequately protect the interests of the Section
11 1681e(b) Class. Plaintiff is committed to vigorously litigating this matter and has
12 retained counsel experienced in handling class actions and claims under the FCRA.
13 Neither Plaintiff nor counsel has any interests which might cause them not to vigorously
14 pursue this claim.
15
16

17 36. This action should be maintained as a class action because questions of law
18 and fact common to the Section 1681e(b) Class members predominate over questions
19 affecting only individual members, and a class action is superior to other available
20 methods for fair and efficient adjudication of the controversy. Further, individual
21 prosecution would prove burdensome and expensive given the complex and extensive
22 litigation necessitated by Trans Union's conduct and the limited availability of legal
23 representation for such prosecutions. It would be virtually impossible for the members
24 of the Section 1681e(b) Class individually to redress effectively the wrongs done to
25 them. Even if the members of the Section 1681e(b) Class themselves could afford such
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individual litigation, it would be an unnecessary burden on the Courts. In fact, it is also likely that a large number of class members may not even know of the FCRA violation, not having reviewed their current credit report, or discovered that a paid, satisfied or released tax lien was not, or is not, being reported as such. Furthermore, individualized litigation presents a potential for inconsistent or contradictory judgments and increases the delay and expense to all parties and to the court system. By contrast, the class action process will result in substantial benefits to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon a single set of proof in a case.

JURY TRIAL DEMAND

37. Plaintiff demands trial by jury.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Trans Union as follows:

(a) An order certifying the proposed Section 1681c(a)(3) Class under Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiff and her counsel to represent the Class;

(b) An order certifying the proposed Section 1681e(b) Class under Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiff and her counsel to represent the Class;

(c) An order declaring that Trans Union's actions as described above are in violation of the FCRA;

- 1 (d) Actual damages to be determined by the jury;
- 2 (e) Statutory damages in the amount of not less than \$100 and not more than
- 3 \$1,000 per violation per Class member, pursuant to 15 U.S.C. § 1681n(a)(1);
- 4
- 5 (f) Punitive damages to be determined by the jury, pursuant to 15 U.S.C. §
- 6 1681n(a)(2);
- 7
- 8 (g) Costs and attorney fees, pursuant to 15 U.S.C. § 1681n(a)(3) and §
- 9 1681o(a)(2); and
- 10 (h) Such other relief as may be just and proper.
- 11
- 12

13 DATED this 16th day of May, 2013

MENGEDOTH LAW PLLC

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15

16 /s Paul B. Mengedoth

17 Paul B. Mengedoth

18 14646 N. Kierland Blvd., Suite 140

19 Scottsdale, AZ 85254

20 Attorney for Plaintiff Leslee Roy

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